IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09CV373-MU-02

RANDY TATE,   )
    Petitioner,   )
)
      v.   )   ORDER
)
UNITED STATES OF AMERICA,)
    Defendant.   )
_____)

THIS MATTER comes before the Court on Petitioner's document captioned as a "Petition Seeking Relief Pursuant To 28 U.S.C. § 2241," filed August 26, 2009.   For the reasons set forth herein, the instant Petition will be dismissed.

By this action, Petitioner is seeking to have his 2009 South Carolina convictions and sentences vacated on multiple grounds, including that his arrest was unlawfully secured, the State of South Carolina failed to disclose favorable evidence to his defense, his conspiracy charge was defective, and he was subjected to ineffective assistance of counsel.   However, as is obvious, even if Petitioner could establish that he properly brought this action pursuant to § 2241 -- a fact which is far from clear on this record, see In re Jones, 226 F.3d 328, 333 (4th Cir. 2000) -- his claims still could not be adjudicated by this Court as the Western District of North Carolina is not the proper venue for this action.

That is, notwithstanding whether or not Petitioner's claims are proper under § 2244, it is abundantly clear that this Court does not have the authority to adjudicate allegations which challenge the legality of convictions imposed by South Carolina. Consequently, inasmuch as Petitioner erroneously has filed this action here, this Court must dismiss his Petition, without prejudice to Petitioner's right properly to file his claims in the appropriate Court. In re Jones, supra, at 332 (noting that proper venue for filing a § 2241 petition is the district of confinement, i.e., where the petitioner and custodian are located); and United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989) (same).

NOW, THEREFORE, IT IS HEREBY ORDERED that Petitioner's § 2241 Petition is **DISMISSED without prejudice.**

SO ORDERED.

Signed: September 1, 2009

Graham C. Mullen
United States District Judge